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Human rights situations that require the Council's attention

Written statement* submitted by ODHIKAR – Coalition for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[1 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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BANGLADESH: Failing to Fulfil its Obligations under the UN Convention against Torture

Torture and other cruel, inhuman or degrading treatment perpetrated by the law enforcement agencies are widespread in Bangladesh. Apart from leaders-activists of the opposition political parties, people from all walks of life were tortured and became victims of inhuman or degrading treatment. The actual number of incidents of torture are probably much more than what is documented, as most of the survivors and victim-families do not speak of the incident in public due to fear of reprisals and further harassment.

Torture is inflicted to humiliate a person and as an exercise to show power and also to elaborate investigation. Law enforcement agencies firmly believe security and law and order cannot be maintained without such treatment. Thus, torture is carried out when suspects are picked up by police and taken into custody. When the suspects are taken into remand for further questioning, torture is routine. The members of law enforcement agencies are allegedly involved in extortion or taking bribe from the ordinary people by threatening them with torture.

On 10 November 2016 the Appellate Division of the Supreme Court issued a 19-point guideline to judicial and law-enforcement officials regarding arrests without warrant and the procedure of remand.1 Such guideline is not implemented either. Torture has been criminalised in Bangladesh through the enactment of the Torture and Custodial Death (Prevention) Act2 on October 24, 2013. Despite this, there is an environment of fear to file cases against the alleged perpetrators due to an endemic practise of torture. The Committee on the Civil and Political Rights noted in its 119th session that there are currently no ongoing investigations into cases of torture accordingly information submitted by Bangladesh government.3 It shows the culture of impunity practiced by the state to protect alleged perpetrators. Regrettably, police have demanded recently to repeal the anti-torture law that prohibits both mental and physical torture in custody by law enforcement agencies, during the Police Welfare Parade to the Prime Minister at Rajarbagh Police Lines on 23 January 2018.4 In 2015, police also proposed to repeal section 125 of the said law.6

Odhikar data shows that 120 persons were allegedly tortured to death by members law enforcement authorities between 2009 and 2017. Detainees subjected to torture in custody often die as a result of deprivation of adequate medical treatment. According to Odhikar documentation, from January 2009 to December 2017, at least 564 individuals have died in jail due to the lack of medical treatment and negligence by the prison authorities.

Victims of torture and their families are under constant threat by the members of law enforcement agencies (LEAs) if they file cases against them. Sometimes LEAs offered money to victim-families to withdraw the case. As for example,

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[1] Prothom Alo, *Reform of Cr.PC Provisions of Arrest, What 19 SC guidelines for law enforcers stipulate*, 10 November 2016

[2] http://www.humanrights.asia/countries/bangladesh/countries/bangladesh/laws/legislation/Torture-CustodialDeath-ActNo50of2013-English.pdf/view

[3] http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fBGD%2fCO%2f1&Lang=en

[4] The Daily Star, 24/01/2018, please visit the link http://www.thedailystar.net/frontpage/police-want-law-against-custodial-torture-scrapped-1349926 and The daily New Age, 24/01/2017, please visit the link http://www.newagebd.net/article/7666/police-want-revocation-of-anti-torture-law

[5] Section 12 of the said Act states that , "War or other contingencies unacceptable as excuse:
(1) Any act constituting an offence under this Act was committed - at a time when there was a state of war, threat of war, internal political instability or any public emergency; or on an order of a superior officer or a public authority; shall be unacceptable as an excuse."

[6] Ibid

on 6 January 2018 Mohammad Zakir Hossain, father of torture victim Shahjalal[7] alleged that he was offered 7,00,000[8] TK by the Officer –in-Charge (OC) of Khalishpur Police Station Nasim Khan to withdraw the case. As he refused to take the amount, police gave him threat for further violence to his son.[9] On 15 January 2018 Inspector Bablur Rahman Khan of the Police Bureau of Investigation (PBI) Khulna submitted the probe report to a Khulna Metropolitan Sessions Court where it did not find any evidence of police gouging Shahjalal's eyes out. The court will hear the case on 15 February 2018.[10]

In another incident, on the night of 21 September 2017, a group of criminals came to the house of Bazlur Rahman (brother of Saidur Rahman and the plaintiff in his murder case[11]) on motorbikes and vandalised his house and threatened him of dire consequences if he did not withdraw the complaint by 24 September 2017. Saidur Rahman was allegedly tortured to death by the members of Satkhira Police Station.[12]

The practice of shooting in the limbs of detainees/accused persons has been highlighted as a new trend of police brutality since 2013. Reports show that before and after the 10th Parliamentary elections several people, particularly activists of opposition political parties became victims of kneecapping.[13] Police shot human rights defender and journalist, Afzal Hossain, in the leg while he was observing local government polls in Bhola district on March 31, 2016.[14] There are fears among the people that arrests and incidents of torture will rise as the date of the 11th Parliamentary elections nears.

The Government of Bangladesh has to take a political position to stop torture and to prosecute perpetrators. Bangladesh fails in its obligations under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or

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[7] According to the case filed by Shahjalal's mother Renu Begum, Shahjalal was picked up by the police on the night of 18 July 2017 when he went out to buy milk for his daughter. When his family went to the police station, OC Nasim demanded Tk1.5 lakh to release him. Shahjalal's family failed to meet the demand, resulting in the police taking Shahjalal out for a ride. He was found the next day at Khulna Medical College Hospital with both his eyes gouged out.

[8] 700000 TK = 8400 USD

[9] The Daily Dhaka Tribune, 17.01.2018, please visit the link http://www.dhakatribune.com/bangladesh/crime/2018/01/17/pbi-evidence-police-gouging-shahjalal

[10] Odhikar gathered information and The Daily Dhaka Tribune, 17.01.2018, please visit the link http://www.dhakatribune.com/bangladesh/crime/2018/01/17/pbi-evidence-police-gouging-shahjalal

[11] On 14 September 2017 at around 1.30 am, a police team of Satkhira Police Station led by Sub-Inspector (SI) Asaduzzaman arrested Maulana Saidur Rahman, Superintendent of Hothatganj Madrassa in Kolaroa under two cases relating to vandalism. Saidur Rahman's brother Rafiqul Islam alleged that on 15 September his brother became unconscious due to the repeated torture in custody. When he was taken to Satkhira Court, the Court, observing his physical condition, refused to hear the police and sent him [illegible] for the hospital and when his condition improved he was produced before the Court again and the Court ordered that he be sent to jail. Superintendent of Satkhira District Jail, Hafizur Rahman informed that Saidur Rahman was admitted to Satkhira Sadar Hospital. Dr. Farhad Zamil, Residential Medical Officer of Satkhira Sadar Hospital, informed that Saidur Rahman died at midnight on 16 September. Marks of injuries were found on his body. On 19 September Saidur Rahman's brother Bozlur Rahman filed a case under section 302 of the Penal Code with Satkhira Sadar Cognisable Court-1, accusing Sub-Inspector Paik Debvar Hossain, ASI Sheikh Sumon Hassan, ASI Ashrafuzzaman and two unknown constables of Satkhira Police Station.

[12] The daily Jugantor, 23.09.2017, please visit the link https://www.jugantor.com/news/2017/09/23/157742/ and Monthly Human Rights Reports of September, 2017 of Odhikar, page- 12, for details please visit the link www.odhikar.org/wp-content/uploads/2018/01/human-rights-monitoring-report-September-2017_Eng.pdf

[13] Human Rights Watch, *"No Right to Live" – "Kneecapping" and Maiming of Detainees by Bangladesh Security Forces*, 29 September 2016, https://www.hrw.org/report/2016/09/29/no-right-live/kneecapping-and-maiming-detainees-bangladesh-security-forces

[14] "BANGLADESH: Call for justice after another police shooting of a human rights defender", Press release by FIDH, AHRC and Odhikar, please visit the link https://www.fidh.org/en/issues/human-rights-defenders/bangladesh-call-for-justice-after-another-police-shooting-of-a-human

Punishment. Given the fact that torture and impunity have become a permanent feature in the practice of criminal investigation, Bangladesh has not submitted any initial report yet to the Committee Against Torture since the ratification of the Convention in 1998.

Recommendations:

Odhikar call for the UN Human Rights Council to:

I. Urge the Government of Bangladesh to ensure human rights and rule of law. Torture and Custodial Death (Prevention) Act 2013 needs to be implemented and legal action be taken against the perpetrators.

II. Urge the Government of Bangladesh to bring the alleged members of the law enforcement agencies to justice.

III. Urge the Government of Bangladesh to accede to the Optional Protocol to the Convention against Torture.

IV. Urge the Government to follow the recommendations made by the UN Human Rights Committee in its 119th session to end torture.

V. The law enforcement agencies must also follow international guidelines "Basic Principles on the use of Force and Firearms by Law Enforcement Officials" and the "UN Code of Conduct for Law Enforcement Officials".

VI. Urge the Government of Bangladesh to recognize the competence of the Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to receive and consider individual complaints of torture or other breaches of obligations under the Convention.

VII. Urge the Government of Bangladesh to submit its report to the Committee Against Torture.